



Forest Stewardship Council®



# FSC Policy for Association Complaint Decision Panel

Terms of Reference and Operating Rules

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**Terms of  
reference**

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# Information

## 1. Introduction and background

The Policy for the Association of Organizations with FSC ([FSC-POL-01-004](#)) defines FSC's position on unacceptable activities of organizations associated with FSC. It aims to identify organizations not committed to the fundamentals of responsible forest management and to prevent them from misusing their association with FSC. As a market-based approach to responsible forestry, FSC's brand integrity is fundamental to achieving its mission. The Policy for Association (PfA) is a core document in the FSC system and an important tool for safeguarding FSC's reputation.

When there is substantial evidence that an organization associated with FSC has violated the Policy for Association, a complaint can be submitted to FSC by stakeholders to start the process of evaluation. FSC may also start an evaluation without an external complaint, when substantial evidence has been brought to its attention on possible violation of the policy.

In case it is not possible to resolve the situation by means of dialogue, mediation or other such pathway, an investigation is carried out by external experts to determine the substance of the allegations. It is also possible to move to a decision without investigation if the evidence available is sufficient to determine a violation. These findings or evidence are then assessed by a PfA Decision Panel that is tasked to determine the consequences based on the investigation, or evidence otherwise submitted to the panel. The process is defined in FSC Processing FSC Policy for Association Complaints ([FSC-STD-01-009](#)).

NOTE: FSC is changing the complaint processing system in a profound way. The first 1,5 years until July 2022 will be considered a trial period, after which the system is reviewed and changes to the operating model introduced, if needed. During this time, the FSC International Board of Directors will be monitoring the functioning of the decision panel.

## 2. Set up of the Decision Panel

FSC will establish a pool of candidates to be called into a PfA decision panel to deliver on the tasks and responsibilities outlined in the Terms of Reference (ToR). Three candidates will be called to form a panel for each PfA complaint case based on the expertise required in that particular complaint. When forming the panel and selecting individual candidates for it, the following criteria are considered:

- Expertise in area of unacceptable activity,
- Regional or local expertise,
- Gender balance,
- Possible conflict of interest
- Other, as needed.

### 3. Objective

The PfA decision panel will take objective and independent decisions on PfA complaint cases based on the evidence, investigation report and any other material provided to them.

### 4. Tasks and responsibilities of the PfA Decision Panel

The participants of the PfA decision panel will work together to form a decision on the PfA complaint case to either maintain association with FSC, maintain association with FSC with conditions or recommend to the FSC Board to disassociate from the organization.

The participants shall

- Select one participant as chair for the panel.
- Review all evidence provided, such as complaint submission, investigation report, evidence gathered and any statements from the organization on findings
- Assess whether a violation of PfA can be confirmed with evidence provided using the scale of probabilities described in FSC-PRO-01-009 Annex 1.
- Review all other provided material that could be in a form of media coverage, legal analysis, impact assessment etc.
- Participate in deliberation meeting(s) and agree on conclusion for the review:
  - a) In case no violation has been confirmed, FSC is to maintain association with the organization
  - b) In case a violation is confirmed, assess based on FSC-PRO-01-009 Annex 2 whether an association with conditions can be maintained and if so, define main conditions for the company to fulfill in line with the above annex.
  - c) In case violation is confirmed and association should not be maintained, formulate a recommendation for the FSC Board of Directors for FSC to disassociate from the organization.
- Create a wording for decision or recommendation with justification and send it to FSC.

The participants shall not

- Act as liaisons towards the complaint parties
- Give public statements about cases or represent FSC unless specifically agreed.

FSC secretariat shall support the decision-making process by

- Forming a decision panel for each case
- Organizing material for review for the panel
- Creating timeline, scheduling and organizing meetings
- Participating as technical expert and secretary in panel meetings
- Doing all public communication about the cases and the decisions.

#### **Exception for trial period of the FSC-PRO-01-009**

During the trial period 5.1.2021 – 30.6.2022 determined for the FSC-PRO-01-009, all conclusions of the Decision Panel will be reviewed by the FSC Board of Directors and shall be considered final only after this review. FSC reserves the right to shorten or extend the trial period. The decisions by the panel are not expected to be changed by

the Board unless there is a compelling reason to do so. In this case, the Board is required to provide justification to the decision panel with additional guidance on how to apply the framework in similar cases in the future.

## **5. Selection of decision panel pool candidates**

FSC organizes a call for candidates. Interested candidates may send a proposal for participation with curriculum vitae.

The proposal shall include the following:

- Name and contact information
- Qualifications (see expertise requirements below, as applicable)
- Examples of similar responsibilities in the past
- Remuneration request in USD for hourly or daily rate, or statement of waiving the remuneration
- Confirmation of principle availability to serve in the panel

FSC will choose 6-9 candidates for the pool, based on the following criteria:

- Expertise and experience working with one or several of the following:
  - timber legality,
  - traditional and human rights,
  - workers' rights
  - forest conversion and HCVs
  - genetically modified organisms in forestry operations
  - corporate law,
  - reputation management, or
  - conflict and dispute resolution
- Understanding of the application of the PfA or similar mechanism for reputation management
- Up-to-date knowledge of and experience with FSC system (not required from all participants)
- Understanding and support of FSC's mission and values
- Experience with seeking and reaching consensus on controversial issues
- Ability to review and comment on documents in English
- Confirmed availability to actively participate in the revision process
- Gender and geographical balance where possible.

Staff of FSC Secretariat and network partners, ASI or Accredited Certification Bodies are not eligible to apply for decision panel candidacy.

Decision panel participants must not have conflicts of interest with the outcome of the decision.

The candidates for the decision panel pool are appointed by the FSC Board of Directors.

## **6. Accountability**

Appointed pool candidates are expected to adhere to the rules and regulations of this TOR and when called into a panel, are expected to be available for sufficient time to thoroughly fulfill their duties as outlined in the estimated work plan (Annex 2).

Appointed candidates shall sign a service and confidentiality agreement with FSC upon appointment.

The candidates are accountable to FSC.

## **7. Term of participants of the pool**

The term as a decision panel pool candidate starts at the date of signing an agreement, based on an appointment decision by the FSC Board of Directors. The term of candidates shall be for three years with a possibility to renew candidacy for an additional term of three years once.

## **8. Workplan and time commitment**

An estimated timetable of time commitment is provided in Annex 2. The estimated time used for the decision is 2 days per participant. If additional time is needed, this can be requested from FSC by the panel chair with rationale and plan on how the time will be used.

FSC receives annually 1-3 cases for which a forming of decision panel is foreseen. However, this number is not fixed and may change from year to year. In addition, the cases vary in content and region, therefore it is possible that one pool candidate gets appointed to several panels annually whereas another will not be appointed to any. FSC does not ensure minimum number of appointments into case specific decision panels.

## **9. The working language**

The working language of the panel is English

## **10. Expenses and remuneration**

FSC is an international not-for-profit organization with limited funds. Participation in the decision panel may be remunerated, but FSC invites candidates to consider donating their time or working with reduced remuneration.

FSC will cover reasonable travel and accommodation expenses related to the work plan upon submission of the respective invoices and receipts, in line with FSC guidelines and templates provided, and if expenses are agreed upon in advance.

## 11. Confidentiality and conflict of interest

Decision pool candidates shall sign a confidentiality and non-disclosure agreement with FSC at the beginning of their participation in the pool.

Per default, non-attributable content of discussions and papers prepared by or presented to the decision panel are considered confidential, unless otherwise specified.

Participants are expected to declare any conflicts of interest where they arise. This will cause the person(s) to be excused from the panel, or from the pool in case of change in circumstances.

## 12. Deliberation and decision making

For the decision panel to meet and deliberate, all decision panel members must be present. The coordinator will strive to select meeting dates and venues that allow for full participation of all decision panel participants. The meetings may take place virtually or in person. If a panel participant is prevented from participating in the deliberations for a prolonged period, the participation is withdrawn, and a new participant is called in to the panel.

The panel shall strive and make every effort possible to take decisions by consensus. If consensus cannot be achieved, the panel shall vote on the final decision.

FSC staff and any other supportive personnel shall not participate in any decision-making.

## Annex 1: Glossary

For the purpose of this document, the terms and definitions given in FSC-STD-01-002 FSC Glossary of Terms and the following will apply:

**Consensus:** General agreement, characterized by the absence of sustained opposition to substantial issues by any important part of the concerned interests. NOTE: Consensus should be the result of a process seeking to consider the views of the interested parties, particularly those directly affected, and to reconcile any conflicting arguments. It need not imply unanimity (adapted from ISO/IEC Guide 2:2004).

**Dispute:** Umbrella term for all complaints and appeals in the FSC system.

**(Panel) Chair:** Person selected shall chair the panel meetings, liaise with FSC secretariat with any organizational topics, and speak for the panel if required.

**Annex 2: Example of case plan**

